

**STATE BAR BUSINESS LAW SECTION
ADR COMMITTEE
MINUTES OF THE MEETING OF DECEMBER 1, 2005**

Members Attending:

Eleanor Barr
Michael Carbone
Michele Flurer
Jane Garzilli
Susan Keenberg
Carol Millie
Barry Newman
Gerry Phillips
Irving Pfeffer
Thomas Reese
Robert Saint-Aubin
Eric Van Ginkel

Also attending:

Guests: Steve Sherman, Patti Meyer

Executive Committee Liaison: Peter Bronson

1. Introductory. Co-Chair Mike Carbone welcomed the committee who were attending in Los Angeles, San Francisco and via telephone conference.
2. Approval of Minutes. The minutes of the meeting of October 20, 2005 were approved.
3. Program Committee Report. Jane Garzilli reminded the committee about the upcoming program, "MED/ARB: Practical Panacea or Ethical Sand Trap?" Ruth Glick, Susan Keenberg, Barry Newman and Gerry Phillips will be the panelists, with Ruth as the moderator. The program will be offered on January 27, 2006 from 9:45-11:45 a.m. during the SEI Conference. It will be necessary to register for the conference to attend this great program.

The committee then discussed possible topics for other programs. Michelle Flurer said to email her with questions or suggestions regarding the programs. There was discussion about plans for web-based programs and how to budget for the programs that we plan to present.

4. Membership Report. Eleanor Barr gave the Membership Committee report. She confirmed that there are 19 members and that we are in the process of admitting the 20th member to the committee. Eleanor then said that her practice has become so demanding that she

has to step down as co-chair. She will continue to work on specific projects such as the ADR clause manual and various programs, but she does not have time for leadership of the committee. Susan Keenberg will assume the position of co-chair. Mike Carbone and others then praised Eleanor for the wonderful job she has done and thanked her and expressed the opinion of the entire committee that we look forward to her continued enthusiastic support of the work of the committee. A motion was made, seconded and approved to accept her resignation with reluctance and to approve Susan Keenberg enthusiastically to be Eleanor's successor.

5. ADR Case Law Update. The ADR Case Law Update consisted of discussion of our progress for dissemination of the news of the developing law and cases in ADR. John Carpenter will write an article on the *Independent Association of Mail Box Center Owners, etc.* case which will be published on our website.

6. Website and Electronic Communications. Susan Keenberg then reported on progress with the website and electronic communications. She reminded everyone to update their State Bar profile on the website. Peter Bronson added that it is important for the State Bar for each of us to submit changes by updating our State Bar profiles as once posted there the changes will be reflected in all pages of the website dealing with our information. The only exception to this is the event registration website. That site does NOT link to the rest of the sites so if you enter updated information there it will disappear after the event.

7. Standards for Neutral Arbitrators. Mike Carbone stated that the Judicial Council has requested comments on possible changes to the ethics standards for arbitrators in contractual arbitration. Comments are due by January 20. Ruth and Mike will be working on this. Peter Bronson reminded everyone to allow enough time to get our recommendations to ExCom for approval. Our next meeting is January 12, 2006. The next ExCom meeting is January 27th. He said they can act by email if necessary.

8. "Active Status" Issue. Mike was asked for an update on the controversy regarding active membership in the Bar for ADR neutrals. The language of the proposed amended rule on this has been changed so that it no longer refers explicitly to providing dispute resolution services. He said the Bar will be sending a letter to all retired judges who are known to provide ADR services saying that they must be on active status. It was mentioned that one federal judge may cease offering mediation services as there is the risk of losing their pension benefits if mediation is defined as "offering legal services."

9. Business Law News. The deadline for the next issue is March 15, 2006. It will be published quarterly. Paul Dubow will do his annual case law update so our committee will be represented in the BLN. Eric Van Ginkel wrote an article on arbitration that he is seeking republication rights to place in the BL News.

10. Budget. Mike Carbone reported on the current status of our budget for next year. We have eliminated any expenses that not clearly defined. The Bar needs to have a rough idea of

our plans. He then thanked Peter for helping with the budget. We are budgeting for three web-based programs but we may not get to do all of them.

11. ADR Clause Manual. Eleanor Barr reported on the first meeting of the Manual Committee. She stated that anyone wanting to work on the committee should sign up right away. She wants a small committee of workers, not just people who will comment on what others have done. Once the initial pass is complete, the document will be circulated for comment before a final version is recommended. The Committee thus far includes Chairperson Eleanor Barr, Robert Saint-Aubin, Tom Reese, Carol Millie, and Eric Van Ginkel. The next meeting will be telephonic and held on December 15. Eleanor will send out the current draft that will serve as a starting point for the committee. Anyone wishing to participate should contact Eleanor.

12. Use of ListServe. Eleanor stated that often people send things to her to be posted or distributed to the list-serve. She said that it is not necessary to send it to her. Please communicate directly to the list-serve which is "sec-bus-adr@calbar.org." Mike asked Susan to resend directions on how to use the list-serve to communicate with our committee. Susan Orloff can create subcommittee lists if we need them.

13. Adjournment. The meeting was adjourned until January 12, 2006.

Please Note: Future meetings for 2006 are scheduled for: January 12, March 2, April 13, May 25, July 20, and September 7.

Happy Holidays to all!

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